

SELLING YOUR HOUSE



• EDINBURGH •
YOUR COUNCIL – YOUR SERVICES

May 2018

Introduction

If you are selling your house or flat, it is important to ensure that all the necessary approvals are in place for any work that has been carried out. Whilst your solicitor will be able to give some advice, experience shows there are delays in some property transactions because the necessary paperwork is not in place.

This guidance note is divided into five sections and should be sufficient for most property transactions. If you have any doubt whether you require any approvals, then please use the contact details at the end of the leaflet.

- Building warrants
- Planning permission
- Listed building consent
- Other Consents
- Further information

BUILDING WARRANTS

Almost all new building work needs the granting of a Building Warrant before work starts. A Completion Certificate needs to be approved by the Council when work is completed to ensure that it is safe to use and fit for its purpose.

Examples of some work that needs a building warrant are as follows;

- a house extension
- a new rooflight
- a new doorway in a non-loadbearing wall
- a new attached garage

If you have carried out work and do not have a building warrant, check out the information below.

Home Improvements

Our webpage on ways to apply for a building warrant provides links to information on when a building warrant is needed. Some work, such as detached garages and huts do not require a warrant but this is subject to certain limits.

Unauthorised Building Works

If you have carried out building work and have not obtained a Building Warrant, you may wish the Council to inform you if they intend to take any enforcement action.

You can apply for a Certificate of Completion where no Building Warrant has been obtained, or apply for the Property Inspection Service. Visit our [webpage on unauthorised building work](#) including fees for the service.

There is no set time limit on enforcing unauthorised works if these have been carried out without a building warrant.

PLANNING PERMISSION

Planning permission is required for new development such as external work and changes of use under specific circumstances. Internal works do not require planning permission and some work is classed as 'permitted development' and can go ahead without planning permission. Go to our [webpage on work that may not require permission](#) for more information on this.

Time Limits on Breaches of Planning Permission

Most building work becomes lawful in planning terms after 4 years. This also applies to a change of use to a house. Otherwise it takes development, including other changes of use, 10 years to become lawful.

If you have carried out work without planning permission, you can either apply retrospectively or, if it was done over 4 years ago, apply for a certificate of lawfulness. This ensures that the Council cannot take enforcement action if the works are deemed lawful. You can find out more about applying for a certificate of lawfulness on the Council website.

Letters of comfort are not issued for planning permission and formal applications for planning permission or certificates of lawfulness are required if legal documentation is required.

LISTED BUILDING CONSENT

Unlike planning permission, there are no set time limits on enforcing unauthorised works to a listed building. In addition, it is an offence to carry out works affecting the character of a listed building, unless the works are authorised.

Listed building consent is required for demolition, extensions and alterations which affect the character of the listed building. This includes internal alterations to any category of listed building whether it be A, B or C(S). Technically any unauthorised work can be subject to enforcement action going back to the date of listing but in practice we will not take enforcement action against longstanding work (with some exceptions) or minor works.

The following criteria will be used in determining whether or not to take enforcement action against unauthorised works to a listed building.

Date of Works

1. If the works are over 10 years old we will not take any enforcement action unless they involve significant changes to the external appearance of the building or involve significant changes to principal rooms or stairwells/hallways, and it is deemed in the public interest to do so. Significant changes include the creation of partitions, removal of original doors and fireplaces and the lowering of ceilings. A principal room is one of the main rooms of a property. Individual properties, including flats, may have more than one principal room. Principal rooms will usually be the largest rooms in the property; well proportioned, often symmetrical and will have good quality/original plasterwork and joinery.
2. In most cases we will not take any enforcement action on works carried out prior to the enactment of the Town and Country Planning (Scotland) Act 1972.
3. We cannot take any enforcement action on works carried out prior to the listing of a property.

Types of Property

Internal works to colony type flats, basement/sub-basement flats and attic flats with coombed ceilings will not be the subject of enforcement action

Minor Works

We will not take any enforcement action in respect of minor works no matter when they were carried out. Minor works include:

1. The conversion of cupboards to form en-suites/bathrooms
2. The removal of a partition within or between cupboards

3. The replacement or relocation of kitchen and bathroom fittings within an existing kitchen or bathroom
4. The creation of new partitions, the removal of old partitions or the creation of new openings in non-principal rooms
5. Re-wiring or re-plumbing
6. The installation of satellite dishes hidden in roof valleys
7. The removal of non-original partitions to re-instate rooms (including principal rooms) to the original size
8. Repair and maintenance works in matching materials

It should be noted that freestanding structures, e.g. sheds, built within the grounds of a listed building, do not require listed building consent. However, these may be a breach of planning permission if built within the last 4 years.

Retrospective Listed Building Consent

The Council does not issue letters of comfort for unauthorised works to listed buildings and, if a formal decision is required, an application for listed building consent should be submitted. This will then be determined and a decision notice issued.

Where the works are minor and do not affect the character of the listed building, we will inform you that permission is not required, usually within 2 weeks of submitting your application.

Other applications may have to be more fully assessed and some may have to be notified to Scottish Ministers before we can grant listed building consent. This can take up to 2-3 months to reach a decision.

In some cases, the application will be refused and enforcement action initiated. However, this applies to a small proportion of applications.

OTHER CONSENTS

There may be other consents you need to have in place before selling your house. For instance, if you have formed a driveway and lowered the kerb, did you get a permit to do this? If you bought your Council home, did you get Feu Superior's consent for any works? Make sure you discuss this with your solicitor before putting your house on the market.

THIS ADVICE IS NOT BINDING IN TERMS OF PLANNING OR BUILDING STANDARDS LAW. THIS DOES NOT BAR THE COUNCIL, AS EITHER PLANNING OR BUILDING STANDARDS AUTHORITY, FROM CONSIDERING ENFORCEMENT ACTION IN RELATION TO INDIVIDUAL CASES.

FURTHER INFORMATION

The Enquiry Office/Planning and Building Standards Help Desk

The Planning and Building Standards Help Desk is part of the Enquiry Office service and can offer informal advice.

Tel: 0131 529 3550

Email: planning@edinburgh.gov.uk

Monday to Friday 9.00am - 1.00pm

Follow us on Twitter:

<http://twitter.com/planningedin>

Building Standards Contact Details

www.edinburgh.gov.uk/buildingwarrantadvice



HAPPY TO TRANSLATE

ترجمہ کر کے حاضر | অ নদের সঙ্গে অনুবাদ করব

يسعدنا توفير الترجمة | MOŻEMY PRZETŁUMACZYĆ | 乐意翻译

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